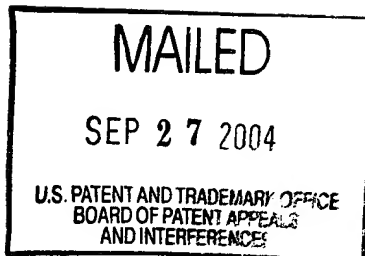


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT A. MACDONALD
and
ROBERT J. RACE



Application No. 09/312,352

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on September 16, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

An examination of the file reveals that an Appeal Brief was filed on February 9, 2004 (Paper No. 29). The examiner acknowledged the Appeal Brief in a communication mailed on April 14, 2004 (Paper No. 30). Section 1208 of the Manual of Patent Examining Procedure (MPEP) (7th Edition, Rev. 1, February 2000) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

(2) Related Appeals and Interferences. A statement acknowledging appellant's identification of related cases which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal

. . . .

(9) References of Record. A listing of the references of record relied on, and, in the case of nonpatent references, the relevant page or pages.

The communication mailed April 14, 2004 (Paper No. 30) does not comply with the above requirements. Correction is required.

Application 09/312,352

Accordingly, it is

ORDERED that the application is returned to the
Examiner:

1. for issuance of a Supplemental Examiner's Answer which includes (1) a proper response to the "Related Appeals and Interferences" and the "References of Record"; and
2. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE SHAW

Program and Resource Administrator
(703) 308-9797

571 272-9797

cc: Popovich, Wiles & O'Connell, PA
650 Third Avenue South
Suite 600
Minneapolis, MN 55402

ds/psb/lc
RA040831

ROUTING FOR DECISIONS OF BOARD OF APPEAL

	Initials	Date
QAS	<u>MM</u>	<u>10/13/04</u>
Director	<u>DM</u>	<u>10/20/04</u>
SPE	<u>[Signature]</u>	<u>11/10/04</u>
Examiner	<u>mm</u>	<u>11/10/04</u>
Disposal Recorded by LIE	<u> </u>	<u> </u>

Date of Decision	Serial Number	Examiner	Art Unit	Affirmed	Reversed
<u>9/27/04</u>	<u>09/312,352</u>	<u>Nender</u>	<u>3672</u>	<input type="checkbox"/> 101	<input type="checkbox"/> 101
				<input type="checkbox"/> 102	<input type="checkbox"/> 102
				<input type="checkbox"/> 103	<input type="checkbox"/> 103
				<input type="checkbox"/> 112	<input type="checkbox"/> 112
				<input type="checkbox"/> other	<input type="checkbox"/> other

****DUE DATE: NOV. 15, 2004

Comments: Order Returning Undecided Appeal
needs supplemental Examiner's Answer which includes
a proper response to the "Related Appeals and Interferences"
and the "References of Record".